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Committee against Torture
Fifty-second session

Summary record of the first part (public)* of the 1218th meeting
Held at the Palais Wilson, Geneva, on Friday, 2 May 2014, at 10 a.m.

Chairperson: Mr. Grossman

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* No summary record was prepared for the second part (closed) of the meeting.

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The meeting was called to order at 10.05 a.m.

Meeting with non-governmental organizations

1. **The Chairperson** welcomed the representatives of non-governmental organizations (NGOs) and said that the Committee greatly appreciated the invaluable contribution of NGOs to its work and was pleased to have the opportunity to exchange views with them.

2. **Mr. Kjaerum** (International Rehabilitation Council for Torture Victims) said that the Committee should better inform NGOs of how it could protect them from reprisals and how they could request its assistance. The Committee could adopt a well-defined public procedure for considering allegations of reprisals and draw up a list of mechanisms for preventing or putting an end to such acts. It could, for example, request United Nations representatives in the field to monitor the situation and take preventive measures.

3. Regarding dialogues with States parties, he suggested that, during the oral consideration of reports, the Committee should refer explicitly to the list of issues prior to reporting and to associated replies. That would prevent delegations from repeating the information already contained in their reports and would ensure better-targeted face-to-face questions. In addition, given that public meetings were now webcast, it would be advisable to make the discussion more interactive. Instead of asking all its questions at once, the Committee could pose a cluster of questions about an article of the Convention or a specific topic, invite the delegation to respond immediately and then move on to the next topic. Thus, members of the public and NGOs who accessed the discussion after the fact could get an idea of each side's position on a given topic without having to listen to the entire meeting.

4. He asked why the Committee intended to adopt the list of issues prior to reporting regarding Mexico and Peru at the current session when the deadline for submitting the relevant reports was set for 2016. Lastly, he urged the Committee to prepare a new general comment in order to continue to facilitate and strengthen the implementation of the Convention.

5. **Mr. Sands** (Association for the Prevention of Torture) drew attention to the global initiative for the universal ratification and implementation of the Convention launched by Chile, Denmark, Ghana, Indonesia and Morocco at the twenty-fifth session of the Human Rights Council in March 2014. The activities undertaken as part of that initiative, whose objective was to help States experiencing difficulties to overcome the obstacles preventing them from adhering to or implementing the Convention, would span the next decade. As one of the main partner NGOs, his organization would help States establish new forms of participatory collaboration.

6. He suggested that the Committee should devote a new general comment to one of the two topics that had been at the heart of its work over the past two years, namely, the effective criminalization of torture and the application of the principle of the inadmissibility of unlawfully obtained evidence. He encouraged the Committee to ensure that the drafting process was transparent and that all interested parties, including NGOs, could take part.

7. **Ms. Benninger** (World Organization against Torture) said that during the current session her organization had begun serving as an intermediary between the Committee and civil society organizations, which involved coordinating the activities of those organizations and holding regular meetings with them in a bid to maintain communication, transparency and effectiveness. She welcomed the Committee's decision to consider the implementation of the Convention in Guinea in the absence of a report and hoped that in the future that approach would be used more regularly and systematically. She suggested that the Committee should draft an amendment to general comment No. 1 on the implementation of article 3 of the Convention, as its content was outdated and incomplete

and its wording, like that of article 3, resulted in controversy and restrictive interpretations. In that context, the Committee should discuss the practical problems linked to the observance of the principle of non-refoulement.

8. **Ms. Holmund** (Amnesty International) welcomed the appointment of two rapporteurs on the issue of reprisals. She supported the suggestion of the International Rehabilitation Council for Torture Victims that the dialogue with States parties should closely follow the structure of the list of issues prior to reporting and be more interactive. She welcomed the Committee's participation in the review of the Standard Minimum Rules for the Treatment of Prisoners and encouraged it to continue its efforts in that regard.

9. **Ms. Osman** (Alkarama) noted with concern that some States parties failed to cooperate with the Committee, whether by not submitting their reports, not implementing the Committee's recommendations or not preparing follow-up reports. It would be useful to set up a grading system to assess more precisely the extent to which recommendations were implemented. While welcoming the fact that establishing a list of issues prior to reporting enabled the Committee to engage in a more constructive dialogue with States parties, she was concerned at the sometimes very lengthy interval between the adoption of the list and the deadline given to the State party for submitting its report. Regarding the confidential inquiries conducted under article 20, she was concerned that they had a limited impact when there was no follow-up to the resulting conclusions and recommendations. She was also concerned by the fact that it sometimes took years for the Committee to rule on individual communications. She urged the Committee to take such decisions as quickly as possible, as such delays might discourage victims and might even constitute a barrier to timely reparation.

10. **The Chairperson** said that in recent years the Committee had ruled on all the communications submitted to it. The problem lay in the fact that the secretariat, for want of resources, was unable to swiftly process all the communications it received. The Committee took note of all the participants' valuable observations and suggestions, in particular those relating to general comments and ways of making the dialogue with States parties more productive, and would discuss them further.

11. **Mr. Gaye** said that the Committee had begun impressing upon States parties the need to guarantee the protection of individuals who collaborated with the Committee and the fact that it monitored their situation closely. The Committee was considering ways of better combating reprisals, such as staying in almost constant contact with those who provided it with information. Two significant problems arose with regard to the observance of the principle of non-refoulement. First, States parties sometimes used diplomatic assurances to shirk their responsibilities in that regard. The Committee's position on that matter was that diplomatic assurances did not justify the violation of the principle of non-refoulement. Second, a number of States had concluded bilateral agreements on extradition and expulsion, which could not be ignored. Lastly, a suggestion had been made to set up a grading system to assess to what extent States parties cooperated with the Committee. He wondered if such a system was compatible with the provisions of the Convention.

12. **Ms. Belmir** said that, although the interval between the drawing up of lists of issues and the submission of reports could pose problems, what mattered was that States parties engaged in a direct dialogue with the Committee. The goal, after all, was to get them, in time, to acknowledge any shortcomings and change their position on certain vital issues, such as the definition and criminalization of torture. Regarding the very limited leeway given to international NGOs in some States parties, the problem was often a lack of information on the activities of those organizations. It was in their interest to ensure that the authorities knew enough about them to include them more fully in the work being done on the ground.

13. **Mr. Modvig** said that the Committee was well aware of the difficulties NGOs encountered in conducting their activities in some countries, including the administrative and legal monitoring and harassment to which they were sometimes subjected. The Committee relied on the collaboration of human rights NGOs, so it should do everything in its power to ensure that they did not suffer reprisals and to respond when they did. Therefore, it would continue discussing ways of further strengthening anti-reprisal efforts.

14. **Mr. Zhang** said that he looked forward to collaborating with NGOs and commended their invaluable contribution to monitoring the observance of the Convention.

15. **Mr. Tugushi**, speaking as Rapporteur on reprisals, said that he agreed on the need to improve and strengthen the Committee's efforts against reprisals. As pointed out by Mr. Gaye, the Committee intended to broach the topic during the dialogue with States parties whenever it was relevant. The Committee must respond to attempts by certain Governments to muzzle human rights NGOs or ban them by various means, and it noted with great interest the suggestions made in that connection. It was important for the Committee and NGOs to maintain constant contact and to notify each other directly of information regarding any cases of harassment; the Committee was willing to hold closed meetings with NGOs on that topic.

16. **Ms. Gaer** recalled that it was out of necessity that the Committee had adopted lists of issues prior to reporting because United Nations conference services were unable to translate in the required time written replies by States parties to lists of issues drawn up after the consideration of periodic reports, in addition to the reports themselves. States parties had overwhelmingly agreed to prepare their reports on the basis of the new procedure. The Committee should look into the matter of whether the dialogue with States parties in its current form lent itself to being webcast. Regarding States that failed to fulfil their reporting obligations, it was worth noting that progress had been achieved on that front since the implementation of the universal periodic review. The Committee continued to send reminders to dilatory States, especially those that had yet to submit their initial report, but in the end it was up to them to decide whether or not to submit their reports. Any suggestions by NGOs as to possible ways of encouraging uncooperative States to fulfil their responsibilities were nonetheless welcome. Regarding reprisals, it would be interesting to know whether any members of the NGOs in attendance or of affiliated organizations had been victimized in retaliation for providing information to the Committee.

17. **Mr. Kjaerum** (International Rehabilitation Council for Torture Victims) said that his previous statement on the issue of reprisals had in no way been meant to criticize the Committee but rather to encourage it to include, where applicable, recommendations about reprisals in its concluding observations. He suggested that the Committee should inform the Secretary-General of every reprisal case brought to its attention so that the Secretary-General's annual report on reprisals adequately reflected the scope of the issue. That had not been true of the previous report, which had mentioned only 12 cases. Webcasting the consideration of State party reports was an excellent way of promoting the implementation of the Convention, and the Committee should make greater use of it. Enhanced interaction with delegations and better-structured dialogues would promote greater understanding of the discussions and, accordingly, of the resulting concluding observations, thereby undoubtedly improving their implementation.

18. **Mr. Sands** (Association for the Prevention of Torture) commended the Committee's active participation in the treaty body strengthening process, which had greatly benefited from the Committee's innovative contributions. He urged the Committee to immediately begin preparing a new general comment in order to take advantage of the momentum generated by the adoption of its general comment No. 3. Since 2014 marked the thirtieth anniversary of the entry into force of the Convention, his organization had planned a number of activities of which it would keep the Committee apprised.

19. **The Chairperson** said that celebrations of the thirtieth anniversary of the Convention should first and foremost be an opportunity to promote the cause of eradicating torture, and that the Committee should discuss which issues to highlight in that connection. Any relevant suggestions by NGOs would be welcome.

20. **Ms. Poli** (Association for the Prevention of Torture) said she hoped that the fact that the Committee, at its current session, was considering the implementation of the Convention in Guinea in the absence of a report would compel other States that had never submitted a report to honour their obligations in that regard.

21. **Ms. Benninger** (World Organization against Torture) said that the staff of such an influential international NGO as hers were not directly exposed to reprisals. Any problems that its staff in certain countries might face were not directly linked to its collaboration with the Committee. However, it did at times refrain from including specific information in its reports to the Committee in an effort to protect its sources against potential reprisals.

22. **Ms. Osman** (Alkarama) requested further details about the cases of Egypt and Bahrain, for which the lists of issues prior to reporting had been adopted in 2010 when the related reports were not expected until 2016.

23. **Mr. Nataf** (Secretary of the Committee) said that, for States such as Egypt and Bahrain that had not replied to the list of issues adopted by the Committee during the first cycle of the implementation of the optional procedure (2009–2013), the Committee had decided to keep the same list for the next cycle. Given that the Committee could adopt lists of issues only during its sessions, or twice per year, and that States required on average 12 to 18 months to prepare their reports, at least 2 years were needed between the adoption of the list and the submission of the report. Although that period was sometimes considerably exceeded, the States were the ones at fault for not adhering to reporting deadlines.

24. **The Chairperson** acknowledged that, in an era where the Internet made possible the immediate and continuous circulation of information, it was difficult to accept having to wait several years to obtain replies to questions on key human rights issues. While States bore much of the responsibility in that regard, in their defence, one must acknowledge that it took time to consult all the stakeholders and gather all the information, especially the statistics, that the Committee requested. The one-year period that States needed for that purpose was therefore not excessive. It should also be borne in mind that the documents had to be translated, which could cause further delay. Thus, a number of parameters had to be taken into account in trying to reduce to a minimum the amount of time between the adoption of the list of issues prior to reporting and the consideration of the report. The Committee would continue its efforts in that regard and hoped to be able to count on the collaboration of States parties and on NGO contributions. While a lasting solution was sought, the Committee would continue to partially make up for the problem by not restricting the dialogue with States parties to matters raised in the list of issues, thereby making it possible to address any new events that might have occurred since the submission of the report and that were relevant to the implementation of the Convention.

The discussion covered in the summary record ended at 11.30 a.m.